

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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DAVID EVDOKIMOW,

1:19-cv-14130 (NLH)

Petitioner,

MEMORANDUM OPINION & ORDER

v.

UNITED STATES OF AMERICA,

Respondent.

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**APPEARANCES:**

Craig Carpenito, United States Attorney  
Vera Varshavsky, Assistant United States Attorney  
US Attorneys Office  
District of New Jersey  
970 Broad Street  
7th Floor  
Newark, NJ 07102

Attorneys for Respondent

Lawrence S. Lustberg  
Gibbons, PC  
One Gateway Center  
Newark, NJ 07102-5310

Attorneys for Petitioner

**HILLMAN, District Judge**

WHEREAS, Petitioner David Evdokimow filed a motion to correct, vacate, or set aside his federal sentence under 28 U.S.C. § 2255 on June 21, 2019, see ECF No. 1; and

WHEREAS, the motion raises several claims of ineffective assistance of counsel; and

WHEREAS, when a § 2255 motion raises an issue of material fact, a district court is required to hold an evidentiary hearing unless the motion, files, and records of the case conclusively show that the Petitioner is not entitled to relief. United States v. Tolliver, 800 F.3d 138, 141 (3d Cir. 2015); and

WHEREAS, "[i]n the [ineffective assistance of counsel] context, a movant need only 'raise[] sufficient allegations' that his counsel was ineffective in order to warrant a hearing." Id. (quoting United States v. Booth, 432 F.3d 542, 549 (3d Cir. 2005)) (final alteration in original); and

WHEREAS, the Court finds that Petitioner has raised sufficient allegations to warrant a hearing,

THEREFORE, IT IS on this 16th day of April, 2020

ORDERED that an evidentiary hearing on Petitioner's § 2255 motion shall take place on Tuesday, June 23, 2020 at 1:00 p.m. in Courtroom 3A of the Mitchell H. Cohen Building & U.S. Courthouse, Camden; and it is further

ORDERED that the Court expects to hear testimony from Petitioner's trial counsel(s), as well as receive any and all evidence (such as notes, documents, and records) that is relevant to the inquiry; and it is finally

ORDERED that any additional briefing is due 14 days prior to the hearing.

At Camden, New Jersey

s/ Noel L. Hillman  
NOEL L. HILLMAN, U.S.D.J.